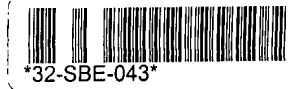


BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA



In the Matter of the Appeals of)
SOUTHWESTERN: CEMENT ASSOCIATES)
O'NEIL FRUIT COMPANY)

Appearances:

For appellants: Mr. Ralph W. Smith, Attorney

For respondent: Hon. Chas. J. McColgan,
Franchise Tax Commissioner

O P I N I O N

These are appeals pursuant to Section 25 of the Bank and Corporation Franchise Tax Act (Stats. 1929, Chapter 13, as amended) from the action of the Franchise Tax Commissioner in overruling the protests of Southwestern Cement Associates, and O'Neil Fruit Company, corporations, to proposed assessments of additional taxes for the year 1931 based on their returns for the year ended December 31, 1930.

Inasmuch as similar problems are involved in each of the above appeals, and inasmuch as the appellants were represented by the same counsel, we have considered the proceedings as a consolidated appeal.

The issues presented for our determination in each of these appeals are whether a corporation the activities of which are confined to holding stock in another corporation is taxable under the Act, and, if taxable, whether the Commissioner acted properly in using as a measure of a tax for the year 1931 dividends declared out of earnings from business done outside the state.

In the Appeal of the Union Oil Associates, decided by us on the 10th day of October, 1932, we had occasion to consider in detail substantially the same problems as are raised by the instant appeals. In that appeal we held that a corporation organized for the purpose of holding stock in another corporation, and engaged in no other activity than holding stock, was taxable under the Act, and that its tax for the year 1931 was properly measured by dividends declared out of earnings from business done outside the state which were received by it during the year 1930. We are of the opinion that our decision in that appeal controls our decision in the instant appeals.

Southwestern Cement Associates;
O'Neil Fruit Company

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the action of the Franchise. Tax Commissioner in overruling the protest of Southwestern Cement Associates, and O'Neil Fruit Company, corporations, against proposed assessments of additional taxes for the year 1931 based on their returns for the year ended December 31, 1930, be and the same is hereby **sustained**

Done at Sacramento, California, this 1st day of November 1932, by the State Board of Equalization.

R. E. Collins, Chairman
Fred E. Stewart, Member
Jno C. Corbett, Member
H. G. Cattell, Member

Attest: Dixwell L. Pierce, Secretary